

### REMARKS

In response to the Office Action dated September 6, 2007, the Applicants have amended claims 1, 13, 24 and 27. Claims 1-28 remain in the case. Reexamination and reconsideration of the application, as amended, are requested.

The Office Action rejected claims 1-2, 13, 24, 25 and 27-28 under 35 U.S.C. § 102(b) as being anticipated by Parulski et al. (U.S. Patent No. 5,668,597). The Office Action rejected claims 3-9, 14-20 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Parulski et al. in view of Kinjo et al. (U.S. Patent No. 6,631,208). The Office Action rejected claims 21-22 under 35 U.S.C. § 103(a) as being unpatentable over Parulski et al. in view of Kinjo et al. and further in view of Horie et al. (U.S. Patent No. 6,480,624). The Office Action rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Parulski et al. and further in view of the Examiner's Official Notice. The Office Action rejected claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Parulski et al. in view of Kinjo et al. and further in view of the Examiner's Official Notice.

The Applicants respectfully traverse these rejections based on the amendments to the claims and the arguments below.

Namely, the Applicants' newly amended claims now include that each pixel can be individually read, independently of other pixels. Support for these amendments can be found throughout the specification and at least in FIG. 2 and paragraphs [0018], [0019], [0025] and [0027] of the Application specification (U.S. Patent Publication No. 2005/0046723).

In contrast, with regard to the anticipation rejection, although Parulski et al. disclose obtaining a partial area of the image, Parulski et al. clearly is missing the Applicants' newly claimed element of having each pixel capable of being individually read, independently of other pixels. Instead, Parulski et al. disclose "basing focus evaluation on a subset of the *image lines* within the focusing area of the image" [*emphasis added*] (as shown in FIGS. 10-11 and col. 3, lines 5-12 of Parulski et al.), which means entire lines are selectively chosen in Parulski et al., unlike the Applicants' claimed invention which allows each pixel to be individually read, independently from other pixels. Since Parulski et al. is missing at least one feature of the claimed invention, the anticipation rejection should be withdrawn.

With regard to the obviousness rejection, as argued above, not only is Parulski et al. missing at least one feature of the Applicants' claimed invention, the combined cited references are also missing features of the claimed invention. Namely, Kinjo merely disclose a digital laboratory system 10 (see FIG 1) for performing red-eye correction upon digital images and Horie et al. simply disclose a system for discriminating color using a luminance calculator (see Abstract of Horie et al.). As such, when Kinjo and Horie et al. are combined with Parulski et al., the combination is still missing at least one feature of the Applicants' claimed invention. Hence, the obviousness rejections should be withdrawn.

Further, even though the combined references do not disclose, teach, or suggest the Applicants' claimed invention, the references should **not** be considered together because Parulski et al. and Kinjo **teach away** from the Applicants' claimed invention. MPEP section 2143.01, part V. clearly states that "[I]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Also, MPEP section 2143.01, part VI. states that "[I]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

Specifically, with regard to Parulski et al., Parulski et al. **explicitly** disclose that the sensor "...having the capacity to eliminate **some lines of image charge** and to transfer other lines of image charge." [**emphasis added**] (see FIGS. 10-11 and col. 3, lines 13-15 of Parulski et al.). Hence, Parulski et al. **require entire image lines** to be selectively included or omitted and **not** individual pixels, like the Applicants' claimed invention.

Consequently, the proposed modification or combination would render Parulski et al. being modified unsatisfactory for its intended purpose and would change the principle of operation of the invention in Parulski et al. being modified. This is because Parulski et al. explicitly **require entire image lines** to be selectively included or omitted, and **not** an individual pixel, so the function of Parulski et al. would be **destroyed** if the Applicants' newly claimed feature of allowing individual pixels to read independently of the other pixels were used.

In addition, with regard to Kinjo, FIG 1 of Kinjo **explicitly** depicts a line CCD 30

included within a line CCD scanner 14. Line CCD 30 is conventional in nature such that if line CCD 30 were to be read (i.e., if output were to be generated by line CCD 30), then all pixels of line CCD 30 would be read/output. That is, it is impossible for less than all of the pixels of line CCD 30 to be read from (output by) line CCD 30. The output of line CCD 30 is converted from analog to digital by A/D converter 32, with the output of A/D converter 32 representing the output of line CCD scanner 14.

Therefore, the function and operation of Kinjo would be destroyed if the Applicants' claimed accessing a first set of sampling photo-sensing pixels of the image sensor and accessing a second set of non-sampling pixels of the image sensor, wherein the first and the second set of pixels have different physical circuitry addressing and control lines going to them, respectively. This is because the line CCD 30 of Kinjo **cannot** have different physical circuitry addressing and control lines going to the pixels, and thus, Kinjo **cannot** read/output less than all of its pixels, unlike the Applicants' claimed invention which also uses a pixel-differentiated image sensor for which member-pixels of a subset of the entire set of pixels are individually addressable, the image sensor being controllable to read less than all of the pixels without having to read all of the pixels.

As such, the proposed modification or combination would render Kinjo being modified unsatisfactory for its intended purpose and would change the principle of operation of the invention in Kinjo being modified if Kinjo used a pixel-differentiated image sensor with pixels that are individually addressable and were to access a first set of sampling photo-sensing pixels of the image sensor and access a second set of non-sampling pixels of the image sensor, wherein the first and the second set of pixels have different physical circuitry addressing and control lines going to them, respectively, like the Applicants' claimed invention. In fact, Kinjo **cannot** be combined with any reference that reads individually addressable pixels because the pixels in Kinjo are clearly **not** intended to be individually addressable and are **only** for group processing purposes (see Abstract, Summary and FIG. 1 of Kinjo).

Thus, the "teaching away" of Kinjo and in Parulski et al. prevent these references from being used by the Examiner. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). Hence, since the Applicants' claimed elements are **not** disclosed, taught or suggested by the combined references and because the Kinjo and in Parulski et al. references **teach away** from the Applicants' claimed invention, **neither** Kinjo nor in Parulski et al.

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can be used as references alone or in combination with the other references, and thus, the Applicants submit that the rejections should be withdrawn. *MPEP 2143*.

With regard to the dependent claims, because they depend from the above-argued respective independent claims, and they contain additional limitations that are patentably distinguishable over the cited references, these claims are also considered to be patentable (MPEP § 2143.03).

Thus, it is respectfully requested that all of the claims be allowed based on the amendments and arguments. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. Additionally, in an effort to further the prosecution of the subject application, the Applicants kindly invite the Examiner to telephone the Applicants' attorney at (818) 885-1575 if the Examiner has any questions or concerns. Please note that all correspondence should continue to be directed to:

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Respectfully submitted,  
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